

General Information Letter: Income attributable to employer-provided housing is included in base income only to the extent included in adjusted gross income of the employee.

August 9, 2000

Dear:

This is in response to your letter dated April 14, 2000—but received by the legal services office on July 11, in which you request a Letter Ruling. Department of Revenue (“Department”) regulations require that the Department issue only two types of letter rulings, Private Letter Rulings (“PLRs”) and General Information Letters (“GILs”). PLRs are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. GILs do not constitute statements of agency policy that apply, interpret or prescribe the tax laws and are not binding on the Department.

Although you have not specifically requested either type of ruling, the nature of your question and the information provided require that we respond only with a GIL.

In your letter you stated:

I have some questions with regard to taxability of employer provided housing. We are seeking guidance as to taxability of two separate scenarios. In the first, the employer is providing the housing to an employee as a condition of employment. In the second case, the employer is providing the housing to an employee as a convenience. These are both hypothetical situations and no actual employee is involved. We are a payroll software company and need to know how these types of situations should be handled. Could you please explain in your response how each of these scenarios would be taxed and also provide a reference for that action.

Due to the nature of our business, it is very important to have clear written documentation to substantiate our actions.

DISCUSSION

The Illinois Income Tax Act (“IITA”) follows the federal Internal Revenue Code (“IRC”) in this matter. Determination of one’s Illinois income tax liability begins with the computation of base income. Section 203(a)(1) of the IITA states that the starting point for this computation for individual taxpayers is the taxpayer’s federal adjusted gross income. No provision of the IITA modifies the base income figure with respect to employer-provided housing. Thus, to the extent that attributed income from employer-provided housing is included in federal adjusted gross income, it is not deductible for Illinois purposes. To the extent that it is not included in federal adjusted gross income, it need not be added thereto in calculating Illinois net income subject to tax. Thus for income tax purposes Illinois follows the Internal Revenue Service.

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As mentioned above, this is merely a general information letter and not a statement of policy and is not binding upon the Department. I hope that this has been helpful to you. The Department maintains a website, which can be accessed at www.revenue.state.il.us. If you have additional questions please feel free to contact me at the above address.

Very Truly Yours,

Charles E. Matoesian

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